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Protecting the worker and not the job? The real lessons from collective bargaining practice in Denmark and Sweden.

‘Saving the people on board, not the sinking ship’

The present debate in Europe on ‘flexicurity’ is a narrow one. It reduces the discussion to the Danish variant of no or little job protection combined with high unemployment benefits. Systematically referring to the Danish case and presenting this model as ‘free firing of workers’ promotes the idea that European workers should give up job protection in return for what is known as ‘protected mobility’. In this scenario, security does not mean workers holding on to their present jobs, but workers moving from one job to another. Commissioner Spidla recently illustrated this approach by claiming that ‘if the ship is sinking, you don’t try to save the ship, you evacuate the people on board’¹. In other words, employment protection legislation should be abandoned and policy should instead invest in training, and assist retrenched workers to find new jobs.

But is it really the case that job protection does not play any role at all

¹ Speech given to the informal summit of Labour ministers, Austrian presidency.

in the Danish ‘flexicurity’ model? Aren’t those who argue for doing away with job protection altogether not jumping to the wrong conclusions?

Denmark also protects jobs

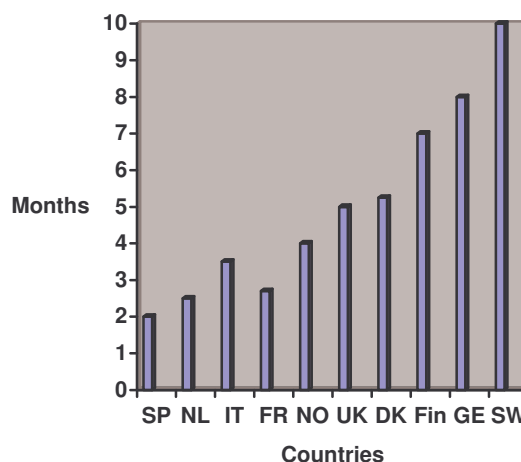
International rankings, developed by the OECD, do indeed point to a relatively low overall level of job protection in Denmark². Danish labour law does not force employers to obtain prior administrative permission before firing workers or to award high amounts of severance pay. As a consequence, overall job protection for regular workers is a little bit higher than half the level of German, French or Spanish job protection.

² OECD indices range from index 0 (no job protection) to index 6 (maximum job protection). Overall job protection includes notification periods and severance pay but also administrative formalities and bureaucratic procedures such as, for example, asking and obtaining prior permission before firing workers.

However, this does not mean that all workers can simply be fired on the spot. In line with the well known Nordic tradition of collective bargaining, social partners fill the vacuum that labour law leaves. Trade unions negotiate job protection for workers through collective agreements covering the different sectors of the economy and reaching out to a vast majority of workers. In particular, Danish collective bargaining agreements oblige employers to notify retrenched workers well in advance. According to OECD statistics³, business needs to respect a notification period of four months in the event of a collective dismissal of a worker with four years of tenure. With 20 years of tenure, the notification period goes up to five months, and on top of this a severance pay of one and a half months is added.

The graph below illustrates that the notification period (in the case of 20 years' tenure and collective dismissal) in Denmark and other Nordic countries is actually higher than in France and Southern European countries. Only Germany has a length of notification period comparable to the Nordic countries. It is also worth considering the high period of notification in Sweden (10 months), making overall job protection in Sweden not so flexible but avoiding a damaging impact on employment. Indeed, Sweden has one of the highest employment rates in Europe and the world.

Notification periods, 20 year tenure and collective dismissal



So it appears that there is no such thing as 'free firing' of workers in Denmark. While some job protection requirements such as administrative processes and severance pay are indeed less strict than in other countries, Danish workers enjoy notification periods that are actually higher than in many other parts of continental Europe.

More valuable lessons from Nordic collective bargaining practice

Why do Denmark, Sweden and Finland put so much focus on workers' rights to notice of retrenchment? The reason is that advance notification reduces the costs of adjustment by giving retrenched workers a head start. Advance notification is like an early-warning system signalling to workers the need to prepare, to start looking for another job and, if necessary, to engage in retraining. It does not come as a big surprise that research shows that workers with advance notification indeed spend less time being

³ Source: OECD. Employment Outlook 2003.

unemployed and find a new job more easily⁴.

But there is even more to it. Denmark and Nordic countries in general do not limit themselves to simply warning workers of change in advance, they also make sure workers have instruments at their disposal that allow and help them to address change in a productive way. From the moment collective redundancies are announced in, for example, Denmark, the enterprise is 'invaded' by the public employment office and social partner institutions offering advice and other means of assistance to those workers receiving notification.

Collective bargaining practice in Sweden is another good example. In Sweden, collective agreements at industry level have set up 'career transition' funds financed from the business sector and jointly managed by social partners. These funds provide notified workers with training, job-search assistance, or paid internships in other firms, even while they are still formally employed by the company that is firing them. The basic philosophy is to provide immediate help and support to workers, not to let people disappear into unemployment and then only activate them after six months or a year. But this, of course, presupposes that firms are obliged to provide a period of advance notification during which this kind of active support is given to the workers concerned....

Conclusion: Europe should get the policy discussion right

A closer look shows that the way the Danish system of employment protection is presented today is not

correct. The flexibility component of Danish 'flexicurity' should not be portrayed as offering not a single obstacle to businesses firing workers at will. Some elements of job protection are indeed at lower levels in Denmark, but at the same time Denmark and other Nordic countries are quite tough in establishing workers' rights to advance notification. At the same time, advance notification is used by the Nordic countries as a crucial opportunity to actively assist workers in the process of structural change.

All of this has important implications for the ongoing drive for 'flexicurity' at the European level. Europe should get the policy discussion right. The policy issue is not about giving business, on top of increased opportunities to outsource activity to low labour-cost countries, another present by getting rid of job protection altogether. Instead, one important part of the real reform agenda is to change the way job protection systems work. Policy (and this included collective bargaining practice) should make sure job protection systems provide workers with adequate advance notification periods and use this time-window of job protection to accompany workers so that they can move into new but decent jobs. So yes, of course we need to protect the worker and invest in workers' skills and mobility. But in order to do so we also need to protect the jobs so that workers, when they come to the end of their employment relationship with a firm, are much better prepared and equipped than would have been the case with 'free firing'.

Finally, one important caveat remains. The analysis thus far has focused on modalities and processes relating to slimming down employment and investing in external protected

⁴ Torres Raymonde. Social Accompaniment measures for globalisation: Sop or Silver lining?, mimeo 2005.

mobility. But even more important is to anticipate restructuring by making sure firms invest in timely innovation, training and internal mobility of the workforce. As the European social partner framework on restructuring

puts it, firing workers should only be seen as the last available option.

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